THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.24300 and 24318 OF 2006

27.12.2006

Between:
Gajulapalle Ramulamma, W/o.Papaiah

… Petitioner

AND

The District Collector, Kadapa
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.24300 and 24318 OF 2006

COMMON ORDER:

This common order shall dispose of both the matters, as the background of the cases and the impugned action complained of, is similar.

The petitioner in W.P.No.24300 of 2006 (hereafter called as, first petitioner) and the petitioner in W.P.No.24318 of 2006 (hereafter called as, second petitioner) filed the writ petitions seeking writ of Mandamus declaring the action of the respondents, namely, District Collector, Revenue Divisional Officer (RDO), Kadapa, and Mandal Revenue Officer (MRO), Pendlimarri Mandal, in interfering with the petitioners' rights over their assigned land in their possession as illegal and arbitrary. A consequential injunction against them is also sought.

The case of the first petitioner is as follows. The land admeasuring Ac.1.00 in survey No.1494/2 and Acs.3.71 in survey No.1495/1 situated at Gaganapalle village of Pendlimarri Mandal in Kadapa District was assigned to P.Ramanadham vide DKT Patta No.913, 1386 F. It is the case of first petitioner that after death of Ramanadham in 1991, land was transferred in favour of Veeramma, W/o.Ramanadham, and after her death in 2001, the land was transferred to the first petitioner, who is the daughter of Veeramma. The first petitioner also obtained necessary endorsement in the Pattadar Pass Book (PPB) issued to Veeramma and has been in enjoyment of the property. While the things stood thus, respondents are proposing to allot the land to Yogivemana University, Kadapa. The first petitioner brought to the notice of respondents about the assignment to Ramanadham and latter to Veeramma and subsequently to the first petitioner, in vain. The first petitioner was informed that the land was already resumed to the Government and she has no right. She alleges that there are no resumption orders and even when they are not served on her, respondents are trying to dispossess her by use of force.

The case of the second petitioner is that the land admeasuring Acs.4.45 in survey No.1494/1 of Ganganapalle village was assigned

to him in 1976 vide DKT Patta No.914, 1386F, that he obtained Pattadar Pass Books (PPBs), that he is paying land revenue regularly and that he has been in continuous possession and enjoyment of the property. However, respondents are taking steps to dispossess him highhandedly with a view to allot the land to Yogivemana University.

These two matters are listed before this Court on 22.11.2006. Learned Assistant Government Pleader for Revenue (General-T) sought time for filing counter affidavit. Therefore, while ordering *status quo* the matter was adjourned. Learned Assistant Government filed counter affidavits on 12.12.2006 and the matter was heard at the admission stage for final disposal.

In the counter affidavit filed in the first writ petition, assignment of land to P.Ramanadham was admitted. However, it is stated that the land was resumed from the assignees for contravention of conditions of patta in the proceedings in Ref.No.B1/687/84, dated 21.4.1984, in favour of Sri Venkateswara University Post-Graduate Center (SVUPGC). It is further averred that subsequently Yogivemana University was established in SVUPGC and, therefore, an extent of Acs.19.70 in survey Nos.1493, 1493/1, 1495, 1496/A, B, C and 1497 besides the land earlier occupied by SVUPGC was handed over to Yogivemana University and remaining extent of land admeasuring Acs.226.59 is under the custody of Revenue Department. A Board was also erected warranting trespass with prosecution and when the same was removed by unknown persons, a complaint was lodged with Station House Officer, P.S.Pendlimarri. Several attempts were made by anti-social elements to grab the land by making false claims.

In W.P.No.24318 of 2006 also a counter affidavit is filed with similar averments.

Learned Counsel for the petitioners strenuously contends that admittedly the land was assigned to the petitioners or their predecessors and without there being any proceedings the respondents are making false claims that the land has been resumed from the assignees. He secondly submits that even if the land is resumed, petitioners alone are under the occupation of the land and, therefore, they cannot be evicted by use of force. **Per contra**, learned Assistant Government pleader submits that Tahsildar issued notices asking Ramanadham, father of the first petitioner, and Gajulapalle Papaiah (petitioner in W.P.No.24318 of 2006) to show cause as to why the land should not be resumed for contravention of conditions of

assignment. As no reply was received, Tahsildar passed proceedings on 21.4.1984 for resumption of the land, which was resumed, and subsequently handed over to SVUPG Centre and thereafter to Yogivemana University. Learned Assistant Government Pleader has produced the original file from the Office of the MRO, Pendlimarry Mandal.

A perusal of the file shows that the notice issued to P.Ramanadham and Gajulapalle Papapah is found at page Nos.138 and 161. The Revenue Officials who made attempts to serve notice on them endorsed on the reverse of the notices that they left the Village and their whereabouts are not known. The resumption order dated 21.4.1984 passed resuming the land from P.Ramanadham and Gajulapalle Papaiah is found at page No.263. Therefore, there is no strong reason to disbelieve the respondents especially when the old record is produced before this Court for perusal. Whether the notice was properly issued? Whether notice was properly served? and whether resumption order is valid? are questions, which cannot be gone into after long lapse of 22 years. Then it has to be seen whether the petitioners have placed any material in support of their case or their allegation that they are in possession of the land. The PPB No.919 bearing Serial No.M114927 (a Xerox copy is annexed to the writ petition) was originally issued to Punagani Veeramma, W/o.Ranganadham. When the land was assigned to Punagani Ramanadham, he got the passbook. Therefore the claim is doubtful. In the last page of the passbook, an endorsement allegedly made by Panchayat Secretary, Gangannapally village and Mandal Revenue Officer, Pendlimarri Mandal, are found which shows that after death of Veeramma, W/o.Ranganadham, PPB is changed in the name of Gajulapalle Ramulamma. Here again Veeramma is shown to be wife of Ranganadham and not Ramanadham. Dealing with this aspect in paragraph 3 of the counter affidavit filed by MRO, it is stated that PPB vide Khata No.919 is not genuine as per 1-B Register, that PPB originally was issued to E.Venkata Subbaiah for survey Nos.1233, 1236/2, and it was rounded of. In the same Khata No.919, the name of Punagani Veeramma was entered. It was also further alleged that the name of Gajulapalle Ramalakshmumma, W/o.Papaiah, was entered without attestation of the concerned MRO. In Form 1-B Register, pattadar is Gajulapalle Ramalakshmamma, but PPB is in favour of Gajulapalle Ramulamma. Though the counter affidavit is served on

learned Counsel for petitioners on 12.12.2006, no reply affidavit is filed denying the counter averments. Filing of reply affidavit would not have made much difference because Xerox copy of the PPB filed by first petitioner *ex facie* appears to be not genuine in view of the counter averments. Adangals and land revenue receipts also do not conclusively prove the allegation of the petitioners. The adangal copy contains 30 columns which is contrary to the present adangal form prescribed by the Government. In State of Andhra Pradesh, land revenue was abolished from 1984-1985 and, therefore, much importance cannot be given to the land revenue receipts produced by the first petitioner.

Insofar as the second petitioner is concerned, refuting the allegation that he is in possession and enjoyment of the land as per the PPB and adangal extract, the counter affidavit filed by the MRO in W.P. No.21318 of 2006 contains the following averments.

> "… … it is respectfully submitted that the land in S.No.1494/1 extent 4.45 acre of Ganganapalle (V) of Pendlimarry (M), Kadapa District was originally assigned to Sri Gajulapalle Papaiah, S/o.Pedda Veeraiah during the year 1976 vide D.K.T. No.914 of 1386 Fasli, i.e., in the year 1976 but not during the year 1986 as contended by the petitioner and the lands were resumed to Government for the purpose of alienation to S.V.U.P.G. Centre during the year 1984. The petitioner got fake Adangal extract with Khata No.928, and obtained Pattadar Pass Book by misrepresenting the facts. As per 1-B Register of Ganganapalle (V) there is entry as Godducherla Subbamma, W/o.Mallesu, Saipet, Kadapa District. In Khata No.928, survey numbers are 87/2 ext. 3.22 and S.No.89/1 ext.1.50 acres. The Adangal extract has been prepared as per Pattadar Pass Book, but not as per adangal of Ganganapalle (V). Hence the petitioner obtained Pattadar Pass Book by misrepresentation and got crop loan in Rayalaseema Gramina Bank with the fake Pattadar Pass Book."

The above averments remained uncontraverted and, therefore, they stand proved. In any view of the matter in both the cases, undisputedly the land has already been handed over to Yogivemana University and the questions raised by the petitioners are questions of fact, which cannot be decided in a writ petition.

The writ petitions are misconceived and are accordingly dismissed. No costs.

(**V.V.S.RAO,J**)

December 27, 2006.

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